

Appl. No. 10/644,280
Amdt. dated June 19, 2007
Reply to Off. Act. dated Mar. 22, 2007

REMARKS/ARGUMENTS

1. The Examiner rejected claims 32, 33, 36-39, 40, and 43 under 35 U.S.C. § 102(b) as being anticipated by Di Meo et al. (U.S. Patent No. 2,823,056). Claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Di Meo et al. (hereinafter "Di Meo") in view of Bartlett et al. (U.S. Patent No. 5,199,756). Claims 34, 41, and 42 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 6, 7, 9, 12-18, 24, and 28-31 were indicated as being allowed. Reconsideration of this application is respectfully requested in view of the amendments and/or remarks provided herein.

Rejection under 35 U.S.C. § 102(b)

2. Claims 32, 33, 36-39, 40, and 43 were rejected under 35 U.S.C. § 102(b) as being anticipated by Di Meo. In particular, the Examiner asserts that Di Meo discloses a connector receiving member that includes parallel sections "arranged to" at least receive at least a portion of a first fastener in the space between them. (See Off. Act., p. 2.) The Examiner identifies the two parallel sections as each side of Di Meo's fairing element (29) and the space between them as the groove (30) into which the mesh base portion of the cable support assembly is inserted. Applicant respectfully disagrees with the Examiner's characterization of Di Meo in view of the express recitations of Applicant's claims.

In order make a proper rejection under 35 U.S.C. § 102(b), the Examiner must show that a single prior art reference discloses *each and every* element as set forth in Applicant's claim. See M.P.E.P. § 2131 (emphasis added). The Examiner has failed to make such a showing with respect to Applicant's independent claim 32. In particular, the Examiner has failed to show that Di Meo discloses a cable tray having a connector receiving member connected to a base portion of the cable tray, wherein the connector receiving member includes two parallel sections separated by a space, and wherein the two parallel sections receive at least a portion of a fastener in the space therebetween. Instead, Di Meo quite clearly discloses a cable support system in which the base portion of each cable tray is fastener-free. As a result, Di Meo fails to disclose a

Appl. No. 10/644,280
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connector receiving member having two parallel sections separated by a space that receives at least a portion of a fastener.

The Examiner asserts that the fairing element (29) disclosed by Di Meo is equivalent to the claimed connector receiving member because the grooves (30) of the fairing element are allegedly adapted to receive at least part of a fastener in the space in between. As stated repeatedly by Applicant in previous responses, the groove (30) on each side of Di Meo's fairing element (29) is not adapted to receive any form of fastener. Rather, each groove (30) is adapted or arranged to receive an edge of the base portion of a cable support assembly. The mesh bases of the cable support assemblies fill the grooves (30) and the top and bottom plates of the fairing element (29) are made of "stiff plate metal" (*see* col. 2, lines 14-16). As a result, absent completely changing the fairing element (30) in a manner undisclosed by Di Meo, there is no way the fairing element (29) can receive a fastener in either of its grooves (30). The Examiner fails to identify any text or figure of Di Meo in which Di Meo discloses or shows that the groove (30) is arranged to receive any type of fastener. Consequently, if, as in previously presented claims, Applicant had been claiming that the space between the two parallel sections of the connector receiving member was "arranged to" receive a fastener, Di Meo would not disclose or suggest such an arrangement.

However, more importantly with respect to claim 32, said claim does not include the "arranged to" terminology alleged by the Examiner to be disclosed in Di Meo. Instead, Applicant's claim provides that the two parallel sections of the connector receiving member "receive," as opposed to merely being "arranged to receive," at least a portion of a fastener in the space therebetween. Di Meo fails to disclose, expressly or inherently, that the groove (30) of his fairing element (29) actually receives any type of fastener. The only thing received by Di Meo's groove (30) is an edge of the base portion of a cable support assembly (cable tray). The groove (30) in Di Meo's fairing element (29) does not receive any fastener.

Therefore, Di Meo fails to disclose, expressly or inherently, each and every element as set forth in Applicant's claim 32 as required to support a rejection under 35 U.S.C. § 102(b). *See* M.P.E.P. § 2131. Accordingly, Applicant submits that claim 32 is not anticipated by Di Meo and respectfully requests that the Examiner withdraw the rejection of claim 32 under 35 U.S.C. § 102(b) and pass claim 32 to allowance.

Appl. No. 10/644,280
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With respect to claims 33, 36-39, 40 and 43, said claims depend upon claim 32, which claim has been shown allowable above. Therefore, since claims 33, 36-39, 40 and 43 each introduce additional subject matter that, when taken together with the recitations of claim 32, constitutes patentable subject matter, Applicant submits that claims 33, 36-39, 40 and 43 are not disclosed or suggested by Di Meo and respectfully requests that claims 33, 36-39, 40 and 43 be passed to allowance.

Rejection under 35 U.S.C. § 103(a)

3. Claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Di Meo in view of Bartlett et al. (hereinafter "Bartlett"). In particular, the Examiner concedes that Di Meo fails to disclose a connector receiving member formed of wire, but asserts that Bartlett discloses a connector fabricated from a functional equivalent of wire. Without commenting on the particulars of the Examiner's analysis of a wire-fabricated connector receiving member, Applicant submits that such analysis is completely irrelevant to the claim limitations of claim 35 and, therefore, disagrees with the Examiner's rejection of claim 35 in view of the cited references.

Claim 35 is a dependent claim that further defines the structural configuration of the two parallel sections of the connector receiving member recited in claim 32. In particular, claim 35 requires the two parallel sections of the connector receiving member to be separated and configured "so as to receive and snugly engage a head of [a] carriage bolt such that rotation of the carriage bolt is prevented during threading of a nut onto the carriage bolt." Applicant's claim 35 does not reference the use of any wire. As a result, the Examiner's analysis of whether the sheet metal locking clip (20) disclosed in Bartlett is functionally equivalent to a wire is irrelevant to the limitations recited in Applicant's claim. The Examiner has not identified and, upon review of Di Meo and Bartlett, Applicant has not found any disclosure or suggestion in either reference of a connector receiving member (or equivalent structure) configured with the structural limitations expressly recited in Applicant's claim 35.

Therefore, in view of the foregoing deficiencies of Di Meo and Bartlett, Applicant submits that the cited references, whether taken alone or in combination, fail to disclose or suggest the subject matter recited in Applicant's claim 35. Accordingly, Applicant respectfully

Appl. No. 10/644,280
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requests that the Examiner withdraw the rejection of claim 35 under 35 U.S.C. § 103(a) and pass claim 35 to allowance.

Allowed Claims

4. Applicant would like to thank the Examiner for indicating the allowability of claims 6, 7, 9, 12-18, 24, and 28-31 as previously presented. Applicant would also like to thank the Examiner for indicating the allowability of claims 34, 41, and 42 if rewritten in independent form. Based on such indication of allowability, Applicant has herein amended claims 34 and 41 to present such claims in independent form. Claim 42 depends upon claim 41 and is, therefore, allowable without being rewritten in independent form based on the indicated allowability of claim 41.

Comments on Statement of Reasons for Allowance


5. In the Examiner's statement of reasons for allowance, the Examiner unnecessarily focused on the wire construction of the connector receiving element and the connector receiving member, as well as on the overall cable tray system. Applicant respectfully objects to the unnecessarily narrow focus of the Examiner's statement and submits that the express recitations of the claims themselves, as construed in accordance with applicable law, define the true scope of Applicant's invention. The only claims that require the connector receiving member and/or the connector receiving element to be wire are claims 12-18 and 28, and the only claims directed to the entire cable tray system are claims 12-18 and 28-30. The remaining allowed and allowable claims do not include the "wire" limitation, nor are they directed to the entire cable tray system. As a result, Applicant submits that such remaining allowed and allowable claims are allowable for the reasons set forth in detail in the extensive prosecution history of the present application.

6. The Examiner is invited to contact the undersigned by telephone, facsimile or email if the Examiner believes that such a communication would advance the prosecution of the instant application. Please charge any necessary fees associated herewith, including extension of

Appl. No. 10/644,280
Amdt. dated June 19, 2007
Reply to Off. Act. dated Mar. 22, 2007

time fees (if applicable and not paid by separate check), to the undersigned's Deposit Account
No. 50-1111.

Respectfully submitted,

By: 
Kevin P. Crosby
Reg. No.: 32,123
Attorney for Applicant
BRINKLEY, MORGAN ET AL.
200 East Las Olas Blvd., Suite 1900
Ft. Lauderdale, FL 33301
Phone: (954) 522-2200/Fax: (954) 522-9123
Email: kevin.crosby@brinkleymorgan.com

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